

Testimony on SB 80
Submitted by Jim Stipcich

SENATE EDUCATION

EXHIBIT NO. 1

DATE 1-19-11

BILL NO. SB 80

Mr. Chairman:

Members of the Committee:

My name is Jim Stipcich. I am the President and CEO of the Student Assistance Foundation (SAF). SAF's primary business line is the servicing of more than \$3.4 billion in federal student loans of which around \$1.1 billion are loans made to Montana students that are owned by the Montana Higher Education Student Assistance Corporation (MHESAC). SAF is the day-to-day business manager of MHESAC. From its business activities, SAF provides around \$1.2 million annually in grants to Montana students pursuing post-secondary education and around \$1.5 million annually in other education related public benefits programs to Montana citizens. I rise to speak to you today concerning SB 80 on behalf of MHESAC.

MHESAC is a non-profit corporation created in 1980 to provide capital to facilitate the making of **federal** student loans in Montana. MHESAC does this as a participant in the Federal Family Education Loan Program (otherwise known as FFELP). MHESAC has provided more than \$2.5 billion in such capital in Montana since 1983, allowing tens of thousands of Montana students the opportunity to pursue their post-secondary education dreams. MHESAC finances its Montana activity through the issuance of tax-exempt bonds. **MHESAC bonds are NOT bonds of the state of Montana and the state of Montana has NO LIABILITY for MHESAC Bonds.** MHESAC's retainable earnings are limited and any excesses above these limits must be returned to borrowers under federal tax rules. MHESAC has provided more than \$42 million in borrower benefits to Montana students, thereby helping Montana students lower the cost of financing their education.

MHESAC's ability to participate in FFELP student loan program is provided for under the Higher Education Act. The ability for certain non-profit student loan bond issuers to issue tax-exempt student loan bonds is authorized as a private activity bond under federal tax law. The amount of private activity bonds that can be issued in any one state is subject to a federally established limit. In Montana we refer to this as volume cap and have established a law that defines how this volume cap will be allocated among federally authorized issuers of private activity bonds. Under existing Montana law, MHESAC is a designated recipient of such an allocation. **Sections 4 & 5 of SB 80 eliminate MHESAC as an entity eligible to be a recipient of volume cap.**

As you may be aware, Congress recently passed the Health Care and Education Reconciliation Act of 2010. This budget reconciliation bill established the federal government as the originator of all federal student loans in a program known as Direct Loans and ceased the origination of federal student loans by private sector participants in FFELP. Supporters of SB 80 may state that MHESAC no longer needs volume cap because of the change in the federal student loan program. **However, MHESAC believes eliminating it from those entities eligible to utilize a portion of the private activity bond cap allocated to Montana at this time is premature.**

Even though federal student loans are no longer being originated under FFELP, there are three instances in which MHESAC may require volume cap in the future:

1. In the event that it is necessary or advantageous to refinance all or part of MHESAC's \$1.1 billion in currently outstanding tax-exempt bonds previously issued to acquire federal student loans made to Montana citizens, (This may be necessary as MHESAC effectively and prudently manages the wind down of its loan portfolio, which will occur over the next 25 years at least.)
2. If a current holder of already originated FFELP student loans made to Montana students desired to sell their Montana portfolio and MHESAC is the acquirer of such loans.
3. If a public-private partnership is reinstated by the federal government for the providing of federal student loans.

Under SB 80, MHESAC would not have access to volume cap in any of these instances. This denies it the utilization of federally authorized tax-exempt student loan bonds. This has the potential consequence of limiting flexibility to address the future as well as possibly increasing financing costs incurred by MHESAC. Both of these items are likely to reduce the amount of future benefits that MHESAC can return to Montana student borrowers.

Furthermore, eliminating MHESAC from the entities eligible to receive volume cap as proposed in SB 80 is really not necessary. Montana's current volume cap law follows a process whereby an allocation of volume cap requires executive branch approval (except for the carry forward of volume cap for certain uses authorized under federal law). Additionally, under federal law, the actual issuance of private activity tax-exempt bonds specifically requires the governor's approval. Under existing law, if the state doesn't want MHESAC to issue further tax-exempt bonds it currently has numerous opportunities to say no without eliminating MHESAC as a state issuer and creating a situation where flexibility for the future is negatively impacted.

MHESAC respects the desire to utilize limited federally authorized tax-exempt private activity volume cap wisely, but does not support SB 80. I am available to answer questions.